



# Department of Justice

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## **INTERNATIONAL COMPETITION NETWORK PRESENTS REPORT ON UNILATERAL CONDUCT AND ANNOUNCES MERGER CONVERGENCE PROJECT**

### ***Assistant Attorney General Thomas O. Barnett Promotes Antitrust Convergence on Substantive Merger Review Issues***

WASHINGTON — The sixth annual International Competition Network (ICN) conference in Moscow took significant steps toward strengthening antitrust convergence, including the launch of a report on unilateral conduct laws and the initiation of a project to develop recommendations on substantive merger analysis, the Department of Justice announced today.

The ICN conference, hosted by Russia's competition authority, the Federal Antimonopoly Service, was held on May 30 through June 1, 2007. More than 350 delegates and competition experts participated, representing more than 80 antitrust agencies, international organizations, and the legal, business, consumer, and academic communities. The conference showcased the recent work of ICN working groups on mergers, unilateral conduct, cartels, and competition policy implementation. Also featured were presentations by Thomas O. Barnett, Assistant Attorney General in charge of the Department of Justice's Antitrust Division, Federal Trade Commission (FTC) Chairman Deborah Platt Majoras, FTC Commissioner William E. Kovacic, and other key officials from antitrust agencies worldwide.

Assistant Attorney General Barnett announced that the Merger Working Group will begin developing consensus recommendations for substantive merger analysis. Barnett identified three topics for initial consideration during the coming year: the efficacy of an agency's legal framework for analyzing proposed mergers, the use and role of presumptions and safe harbors or thresholds, and the analysis of entry and expansion.

"Multijurisdictional mergers are an important part of global commerce," Barnett said. "With the growing number of jurisdictions active in merger review, the conference participants confirmed that it is important for the ICN to work towards consensus on substantive merger analysis."

The Merger Working Group, chaired by Gerald F. Masoudi, Deputy Assistant Attorney General for the Department of Justice's Antitrust Division, also announced that it will hold merger workshops in South Africa and the Czech Republic for agency lawyers and economists in the coming year.

The conference highlighted the work of the Unilateral Conduct Working Group (UCWG), which was established in 2006, and emphasized the international attention given to this complex area of antitrust law. Co-chaired by the FTC and the German Bundeskartellamt, the UCWG examines the challenges involved in addressing firms with market power in an effort to promote greater

convergence and sound enforcement of laws governing unilateral conduct. The UCWG presented the results of its survey of ICN members and non-governmental advisors in a report that includes chapters on the objectives of unilateral conduct laws, the assessment of dominance/substantial market power, and state-created monopolies.

“ICN work in the area of unilateral conduct shows great promise in deepening understanding of the relevant policy foundations and promoting acceptance of sound analytical concepts and techniques,” said FTC Chairman Majoras. “While I am encouraged by the level of convergence revealed by this initial effort, I am committed to pushing harder to address the differences that remain, in a way that best serves the welfare of our consumers and economies,” added Majoras.

The conference also highlighted the Cartel Working Group, which aims to reduce obstacles that antitrust agencies face in cracking cartels through the exchange of effective investigative techniques and the examination of important legal and policy topics. In Moscow, ICN delegates discussed international cooperation among antitrust agencies in cartel investigations, how agencies can best focus their resources to generate new cases and prioritize investigative leads, and the benefits of negotiated settlements.

“The ICN’s Cartel Working Group brings together like-minded enforcers who share a willingness to work together against the common enemy of hardcore cartels,” said Scott D. Hammond, Deputy Assistant Attorney General of Criminal Enforcement for the Department of Justice’s Antitrust Division. “Such cooperation enhances our ability to shut down international cartels.”

A conference panel also showcased the member agencies’ progress in implementing the ICN’s recommended practices for merger notification and review procedures, the merger guidelines workbook, and remedies study.

In October 2001, the Department of Justice and the FTC joined with antitrust agencies from 13 other international jurisdictions to create the ICN. The ICN now comprises 100 agencies from 88 jurisdictions. The ICN has two main goals: to promote greater substantive and procedural convergence among antitrust authorities on sound competition principles; and to provide support for new antitrust agencies in enforcing their laws and in building strong competition cultures.

ICN documents are available at [www.internationalcompetitionnetwork.org](http://www.internationalcompetitionnetwork.org).

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